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23409
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In re Application of :
ZANGARI *et al* :
U.S. Application No.: 10/552,205 :
PCT No.: PCT/US2004/010577 :
Int. Filing Date: 07 April 2004 :
Priority Date: 07 April 2003 :
Attorney Docket No.: 047177-9121-US01 :
For: MODULAR REFRIGERATION UNIT :

DECISION

This decision is in response to applicants' renewed petition under 37 CFR 1.47(a) filed 10 March 2008.

BACKGROUND

On 09 January 2008, a decision dismissing applicants' petition under 37 CFR 1.47(a) was mailed. Applicants were given two months to respond.

On 10 March 2008, applicants filed the subject response which was accompanied by, *inter alia*, a complete copy of the declaration previously filed.

DISCUSSION

A petition under 37 CFR 1.47(a) requires: (1) the petition fee; (2) factual proof that the missing joint inventors cannot be located or refuse to cooperate; (3) a statement of the last known addresses of the nonsigning joint inventors; (4) and an oath or declaration executed by the signing joint inventors on their behalf and on behalf of the nonsigning joint inventors.

Items (2) and (4) were not satisfied in the initial petition filed 23 November 2007.

Concerning item (4), the 37 CFR 1.47(a) applicants submitted a complete copy of the declaration signed by each of the four joint inventors on behalf of the nonsigning joint inventor. This is sufficient to satisfy item (4).

With regards to item (2), the 37 CFR 1.47(a) applicants failed to satisfy this item because they did not provide any documentary evidence to support Mr. Hernandez's claim that the nonsigning inventor received a complete copy of the application on 06 October 2005. The 37 CFR 1.47(a) applicants were requested should provide a copy of the cover letter and postal receipts showing that Mr. Gutierrez received a complete copy

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of the subject application (description, claims and drawings) with any renewed petition.

In the renewed response, the 37 CFR 1.47(a) applicants did not provide the documentary evidence as requested. The 37 CFR 1.47(a) applicants claim that the submission of the documentary evidence as outlined in the MPEP is "merely optional." Applicants argue that they have declared all facts in their conclusion that Mr. Gutierrez refused to join in the application and this is sufficient to satisfy item (2) of 37 CFR 1.47(a).

Applicants' argument has been carefully considered and dismissed.

As indicated in the prior decision, the purported oral refusal on 07 October 2005 will not be accepted unless the 37 CFR 1.47(a) applicants demonstrate with documentary evidence that a complete copy of the subject application was presented to the nonsigning inventor. The statement by Mr. Hernandez is not sufficient. Corroborating evidence is required.

For the reason noted above, item (2) of 37 CFR 1.47(a) is still not yet satisfied.

CONCLUSION

For the reason discussed above, applicants' renewed petition under 37 CFR 1.47(a) is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time are available.

Any further correspondence with respect to this matter may be filed electronically via the USPTO EFS-Web or if mailed addressed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



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